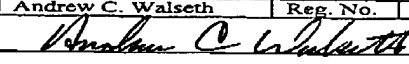



AUG 09 2010

First Named Inventor	Mike Peng Li	<b>FACSIMILE TRANSMITTAL FORM</b>	<b>RECEIVED</b> <b>AUG 13 2010</b> <b>OFFICE OF PETITIONS</b>
Serial No.	09/997,143		
Filing Date	November 29, 2001		
U.S. Patent No.	6,813,589		
Issue Date	November 2, 2004		
Fax Number	571-273-8300		
Attorney Docket No.	0019US01		
Title: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS			

Total Pages: 10 (including transmittal sheet)

Mail Stop Petition  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

Enclosures			
The following documents are enclosed:			
<input checked="" type="checkbox"/>	Form PTO/SB/96 – STATEMENT UNDER 37 CFR 3.73(b) (1 pg.)		
<input checked="" type="checkbox"/>	Form PTO/SB/66 – Petition for Revival of Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (3 pg.)		
<input checked="" type="checkbox"/>	Petition to Revive (2 pgs.)		
<input checked="" type="checkbox"/>	Claim of Small Entity Status (1 pg.)		
<input checked="" type="checkbox"/>	Form SB/2038 – Credit Card Form (1 pg.)		
<input checked="" type="checkbox"/>	Form SB/81A – Revocation of Power of Attorney with New Power of Attorney (1 pg.)		
Submitted By			
Name	Andrew C. Walseth	Reg. No.	43,234
Signature		Telephone	(651)336-8307
		Date	8/9/10
Gigamax, Inc. 6550 Edenvale Blvd. Eden Prairie, MN 55346 T 952 374-5960 F 952 374-5984 <a href="http://www.gigamaxtech.com">http://www.gigamaxtech.com</a> <a href="mailto:info@gigamaxtech.com">info@gigamaxtech.com</a>			
Certificate of Transmission			
I certify that this paper, and the above-identified documents, are being transmitted by facsimile to 571-273-8300 at the United States Patent and Trademark Office on August 9, 2010.			
Name	Andrew C. Walseth	Signature	

This Communication contains confidential information that may be attorney-client privileged. If you received this communication in error, please contact the sender at (952) 374-5960 and destroy the original.

Applicant respectfully requests revival of the above-identified patent (U.S. Patent No. 6,813,589) under 37 CFR 1.137(b). Applicant unintentionally failed to pay the maintenance fee due April 2, 2008 and as a result of which the Patent became abandoned on November 2, 2008. Applicant has enclosed a Small Entity 3.5 Year Maintenance Fee Payment of \$490 and the \$65 surcharge fee herewith. Applicant asserts that the entire delay in submission of the required Maintenance Fee from the due date until the filing of this petition was unintentional. As the application that resulted in this patent was filed after June 8, 1995, Applicant believes that a Terminal Disclaimer is not required for this application.

A Petition fee of \$1640.00 as set forth under 37 C.F.R. 1.20(i)(2) is also included herewith.

Petitioner, Gigamax Technologies, Inc., is successor in title to the Present Patent having purchased the assets from the creditors of the previous Assignee, Wavecrest Corp., which became insolvent and closed for business on July 29, 2008.

The present Patent is one of several applications and patents that became abandoned for lack of responses and maintenance fees after this period. As asserted in the attached claim of small entity status, the Petitioner, Gigamax Technologies, Inc. is a small start-up company. Gigamax Technologies, Inc. only recently completed purchase

**PETITION TO REVIVE PATENT**

U.S. Patent No. 6,813,589

PAGE 2

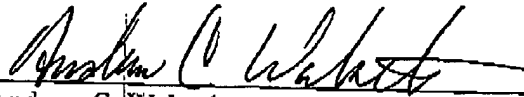
Title: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS

Applicant Docket No. 0019US01

of, and clear title to, the assets of Wavecrest Corp. after entering to a conditional purchase agreement on March 3, 2009. Gigamax Technologies has been involved in organizing the company, securing start-up funding and inventorying assets with limited access to personnel and funds. Gigamax Technologies, Inc. has only recently become aware of the applications and patents that became abandoned and is now responding in attempt to revive after gaining title to them.

If the Examiner has any questions regarding this petition please feel free to contact the undersigned at 651-336-8307 or by email at [awalseth@gigamaxtech.com](mailto:awalseth@gigamaxtech.com).

Respectfully submitted,

Date: 8/9/10

Andrew C. Walseth

Reg. No. 43,234

[awalseth@gigamaxtech.com](mailto:awalseth@gigamaxtech.com)

Gigamax, Inc.  
6550 Edenvale Blvd.  
Eden Prairie, MN 55346  
T 952 374-5960  
F 952 374-5984  
<http://www.gigamaxtech.com>  
[info@gigamaxtech.com](mailto:info@gigamaxtech.com)

2010 AUG 10 PM 4:29

AUG 09 2010

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
It displays a valid OMB control number**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

0019US01

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (571) 273-8300

08/12/2010 DALLEN 00000011 6813589

01 FC:1599

2130.00 OF

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3262.

Patent No. 6,813,589Application Number 09/997,143Issue Date November 2, 2004Filing Date November 29, 2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent

☐

Is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_

original application number \_\_\_\_\_

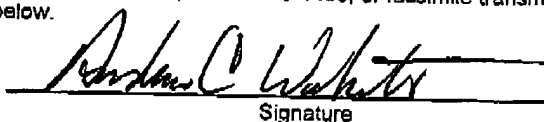
original filing date \_\_\_\_\_

☐resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_  
filed on \_\_\_\_\_**CERTIFICATE OF MAILING (37 CFR 1.89(a))**

I hereby certify that this paper ("along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

9/9/10

Date

  
Signature

Andrew C. Walseth, Reg. No. 43,234

Typed or Printed Name of Person Signing Certificate

(page 1 of 3)

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Approved for use through 03/31/2012. OMB 0851-0018  
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490.00	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 490.00

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(l)(2) of \$ 65.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 65.00

## 5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ \_\_\_\_\_

☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☒ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. \_\_\_\_\_

[Page 2 of 3]

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

Approved for use through 03/31/2012. OMB 0851-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## 7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. \_\_\_\_\_

☒

Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

## 9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Andrew C. Walseth  
Signature(s) of Petitioner(s)

4/9/10  
Date

Andrew C. Walseth

Typed or printed name(s)

43,234

Registration Number, if applicable

952-374-5960, 651-336-8307

Telephone Number

6550 Edenvale Blvd.

Address

Eden Prairie, MN. 55346

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

## ENCLOSURES

☒

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐

[Page 3 of 3]

AUG 09 2010

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 11/30/2011. OMB 0861-0036  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**PATENT - POWER OF ATTORNEY  
OR  
REVOCATION OF POWER OF ATTORNEY  
WITH A NEW POWER OF ATTORNEY  
AND  
CHANGE OF CORRESPONDENCE ADDRESS**

Patent Number	6,813,589
Issue Date	November 2, 2004
First Named Inventor	Mike Peng Li
Title	METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS
Attorney Docket Number	0019US01

I hereby revoke all previous powers of attorney given in the above-identified patent.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

☒ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number
Andrew C. Walseth	43,234

Please recognize or change the correspondence address for the above-identified patent to:

☐ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name Gigamax Technologies, Inc.

Address 6550 Edenvalle Blvd.

City Eden Prairie

Country U.S.A.

State MN

Zip 55346

Telephone 952-374-5980

Email info@gigamaxtech.com

I am the:

☐ Inventor, having ownership of the patent.

OR

☒ Patent owner.

Statement under 37 CFR 1.73(b) (Former PTO/SB/86) submitted herewith or filed on

Signature

Name Charles R. Olson

Date 8/6/10

Title and Company CEO, Gigamax Technologies, Inc.

Telephone 952-374-5980

**NOTE:** Signatures of all the inventors or patent owners of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.


☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Gigamax Technologies, Inc.  
6550 Edenvale Blvd.  
Eden Prairie, MN 55346  
Tel: (952) 374-5960  
Fax: (952) 374-5984

Gigamax Technologies, Inc. of 6550 Edenvale Blvd., Eden Prairie, MN 55346, the owner and current assignee of the present patent, U.S. Patent No. 6,813,589, issued from U.S. Patent Application No. 09/997,143, Titled: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS, herewith claims small entity status for purposes of prosecution of the present application before the United States Patent Office and asserts that it conforms to the required definition of a small entity detailed in 13 C.F.R 121.801-121.805.

X 

Charles R. Olson, CEO of Gigamax Technologies, Inc.

X  8/6/10

Andrew Walseth, Esq.

Registration No. 43,234

AUG 09 2010

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 07/31/2012. OMB 0851-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Gigamax Technologies, Inc.Application No./Patent No.: 6,813,589Filed/Issue Date: November 29, 2001/November 2, 2004

Titled:

**METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS**

Gigamax Technologies, Inc.

(Name of Assignee)

a Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy therefore is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Li et al.To: Wavecrest Corporation

The document was recorded in the United States Patent and Trademark Office at

Reel 012340Frame 0184

or for which a copy thereof is attached.

2. From: \_\_\_\_\_

To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_

Frame \_\_\_\_\_

or for which a copy thereof is attached.

3. From: \_\_\_\_\_

To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_

Frame \_\_\_\_\_

or for which a copy thereof is attached.

- ☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Charles R. Olson

Printed or Typed Name

Date

CEO

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.